

MANDATE

19-91; 19-96

Barnett; Barnett, Jr. v. Nat'l R.R. Passenger Corp.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

USDC SDNY
DOCUMENT
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DATE FILED: May 12, 2020

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1 At a stated term of the United States Court of Appeals for the Second Circuit,
2 held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the
3 City of New York, on the 31st day of March, two thousand twenty.

4
5 PRESENT: BARRINGTON D. PARKER,
6 RAYMOND J. LOHIER, JR.,
7 STEVEN J. MENASHI,
8 *Circuit Judges.*

9
10 ANTHONY BARNETT,

11
12 *Plaintiff-Appellant,*

13
14 v. No. 19-91

15
16 NATIONAL RAILROAD PASSENGER
17 CORPORATION (AMTRAK),

18
19 *Defendant-Appellee.*

1 ANTHONY J. BARNETT, JR.
2

3 *Plaintiff-Appellant,*
4

5 v.
6

No. 19-96

7 NATIONAL RAILROAD PASSENGER
8 CORPORATION (AMTRAK),
9

10 *Defendant-Appellee.**
11

12 -----
13 FOR PLAINTIFF-APPELLANT
14 ANTHONY BARNETT:

ANTHONY BARNETT, *pro se*,
Maplewood, NJ.

16 FOR PLAINTIFF-APPELLANT
17 ANTHONY J. BARNETT, JR.:
18

ANTHONY J. BARNETT, Jr., *pro
se*, Belleville, NJ.

20 FOR DEFENDANT-APPELLEE:
21

LISA M. GRIFFITH (William H.
Ng, *on the brief*), Littler
Mendelson, P.C., Melville, NY.

24 Appeal from judgments of the United States District Court for the

25 Southern District of New York (Katherine Polk Failla, *Judge*).

26 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,

27 AND DECREED that the judgments of the District Court are AFFIRMED.

* The Clerk of Court is directed to amend the official caption as shown above.

1 Plaintiffs-Appellants Anthony Barnett (hereinafter, "Barnett") and his son
2 Anthony J. Barnett, Jr. (hereinafter, "Barnett, Jr."), both pro se, sued the National
3 Railroad Passenger Corporation (Amtrak) under Title VII of the Civil Rights Act
4 of 1964, 42 U.S.C. §§ 2000e to 2000e-17. They alleged that Amtrak refused to hire
5 either of them in retaliation for Barnett's protected activity in a prior position
6 with a different transit employer. We assume the parties' familiarity with the
7 underlying facts and prior record of proceedings, to which we refer only as
8 necessary to explain our decision to affirm.

9 We review the District Court's grant of summary judgment de novo,
10 viewing the evidence in the light most favorable to Barnett and Barnett, Jr., the
11 non-moving parties. See Ya-Chen Chen v. City Univ. of N.Y., 805 F.3d 59, 69 (2d
12 Cir. 2015). "[T]he judge must ask . . . not whether . . . the evidence unmistakably
13 favors one side or the other but whether a fair-minded jury could return a verdict
14 for the [non-moving party] on the evidence presented." Jeffreys v. City of New
15 York, 426 F.3d 549, 553 (2d Cir. 2005).

16 We analyze Title VII retaliation claims under the familiar burden-shifting
17 framework set forth in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802–04

1 (1973). At the first stage of the McDonnell Douglas framework, the plaintiff must
 2 establish a prima facie case of retaliation by demonstrating: "1) participation in a
 3 protected activity; 2) the defendant's knowledge of the protected activity; 3) an
 4 adverse employment action; and 4) a causal connection between the protected
 5 activity and the adverse employment action." Zann Kwan v. Andalex Group
 6 LLC, 737 F.3d 834, 844 (2d Cir. 2013) (quotation marks omitted).

7 Here the District Court concluded that there was no genuine dispute of
 8 material fact that Amtrak was unaware of Barnett's protected activity. Although
 9 we have carefully considered the Barnetts' views to the contrary, we agree with
 10 the District Court that Amtrak produced admissible evidence that it was
 11 unaware of Barnett's protected activity, that the Barnetts in this case did not
 12 sufficiently controvert that evidence, and that they therefore failed to establish a
 13 prima facie case of retaliation.

14 We have considered the Barnetts' remaining arguments and conclude that
 15 they are without merit. For the foregoing reasons, the judgments of the District
 16 Court are AFFIRMED.

17 FOR THE COURT:
 18 Catherine O'Hagan Wolfe, Clerk of Court

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit


 Catherine O'Hagan Wolfe




 Catherine O'Hagan Wolfe